

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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:
**FULL CREATIVE, LTD. d/b/a I.C.B.
ASIA, CO., LTD.,**

Plaintiff,

- against -

**SOLE CITY, INC., SOLOMON SAFDEYE,
ALAN KANDALL, JEFFREY BERNSTEIN
And MARC DOLCE,**

Defendants.
:
:
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**04 Civ. 02907
(RJH)(GWG)**

**AFFIDAVIT IN SUPPORT
OF DEFENDANTS'
MOTION TO DISMISS**

**STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)**

S. Reid Kahn, being duly sworn, deposes and says:

1. I am a member of the law firm of Kane Kessler, P.C., the attorneys for defendants Sole City, Inc., Solomon Safdeye and Alan Kandall, (collectively, the "Defendants"), in connection with the above-captioned matter, and I have personal knowledge of the facts and circumstances set forth herein.

2. I respectfully submit this affidavit in support of Defendants' motion pursuant to F.R.C.P. 12(b)(6) to dismiss the Third and Fourth Claims for Relief for fraud and negligent misrepresentation, respectively, asserted by plaintiff, Full Creative, Ltd. d/b/a I.C.B. Asia, Co., Ltd. (the "Plaintiff") for failure to state a claim upon which relief may be granted, and for such other and further relief as the Court deems just, proper and equitable.

3. Annexed hereto as Exhibit "A" is a true and correct copy of the Summons and Complaint filed by Plaintiff.

WHEREFORE, based upon the exhibit annexed hereto and the reasons and principals of law set forth in the accompanying Memorandum of Law, it is respectfully requested that Defendants' motion to dismiss Plaintiff's Third and Fourth Claims for Relief for fraud and negligent misrepresentation be granted in its entirety.

s/S. Reid Kahn
S. REID KAHN

Sworn to before me this
26th day of May, 2004.

s/Arthur M. Rosenberg
Arthur M. Rosenberg
Notary Public, State of New York
No. 02RO4870146
Qualified in New York County
Commission Expires August 11, 2006